

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Victor L. Williams,

Plaintiff,

Civ. No. 06-3292 (RHK/AJB)

ORDER

v.

Midwest Readers Inc. and Anthony
Moulder,

Defendants.

This matter is before the Court on Defendants' Motion to Dismiss (Doc. No. 11), filed October 31, 2006. On that same date, Plaintiff Victor Williams filed an Amended Complaint (Doc. No. 15), which apparently has not yet been served on either Defendant. (See Def. Mem. at 4 n.1.) By filing his Amended Complaint, Williams has "supercede[d] [the] original complaint and render[ed] [it] without legal effect." In re Wireless Telephone Fed. Cost Recovery Fees Litig., 396 F.3d 922, 928 (8th Cir. 2005) (citing In re Atlas Van Lines, Inc., 209 F.3d 1064, 1067 (8th Cir. 2000)). Accordingly, it is hereby **ORDERED** as follows:

1. The hearing on Defendants' Motion, currently scheduled for January 3, 2007, is **CANCELED**;
2. Defendants' Motion to Dismiss (Doc. No. 11) is **DENIED WITHOUT PREJUDICE**;

3. On or before January 31, 2007, Plaintiff shall serve each Defendant with a copy of the Amended Complaint and shall file proof of service with the Court.¹ **PLAINTIFF IS ADVISED THAT HIS FAILURE TO COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS PARAGRAPH MAY RESULT IN THE DISMISSAL OF THIS ACTION;** and
4. Defendants may renew their Motion to Dismiss after they are served with the Amended Complaint. If Defendants choose to renew their Motion, they shall serve and file – in addition to the documents required to be served and filed under Local Rule 7.1 – a notice informing Williams of the consequences of failing to respond to said Motion.

Dated: December 19, 2006

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge

¹ The Court notes that service of the *Amended* Complaint is governed by Federal Rule of Civil Procedure 5 rather than Federal Rule of Civil Procedure 4, which governed the service of Williams's original Complaint.